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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RECLAIM THE RECORDS and ALEC  
FERRETTI,

Plaintiffs,

-v-

UNITED STATES DEPARTMENT OF STATE,

Defendant.

23 Civ. 1529 (VEC)

**ANSWER**

Defendant the United States Department of State (“Department” or “Defendant”), by its attorney, Damian Williams, United States Attorney for the Southern District of New York, answers the complaint of plaintiffs Reclaim the Records and Alec Ferretti (together, “Plaintiffs”) dated February 23, 2023 (ECF No. 1, “Complaint”). To the extent that any allegation is not admitted herein, it is denied. Moreover, to the extent that the Complaint refers to or quotes from external documents, statutes, or other sources, Defendant may refer to such materials for their accurate and complete contents; however, such references are not intended to be, and should not be construed to be, an admission that the cited materials: (a) are correctly cited or quoted by Plaintiffs; (b) are relevant to this, or any other, action; or (c) are admissible in this, or any other, action.

Defendant responds to the Complaint in like numbered paragraphs, upon information and belief, as follows:

### **PRELIMINARY STATEMENT**

1. Paragraph 1 of the Complaint contains Plaintiffs' characterizations of this action, to which no response is required. To the extent a response is deemed required, Defendant denies the allegations contained in paragraph 1 of the Complaint, except admits that Plaintiffs seek relief pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and filed a FOIA request that is the subject of this action.

2. Paragraph 2 of the Complaint consists of Plaintiffs' prayer for relief, to which no response is required. To the extent a response is deemed required, Defendant denies that Plaintiffs are entitled to the relief requested, or any other relief, for the claims alleged in the Complaint.

### **JURISDICTION AND VENUE**

3. Paragraph 3 of the Complaint consists of legal conclusions regarding jurisdiction, to which no response is required.

4. Paragraph 4 of the Complaint consists of legal conclusions regarding venue, to which no response is required. To the extent a response is deemed required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Complaint concerning unspecified "databases" and Plaintiff Ferretti's residence.

5. Paragraph 5 of the Complaint consists of a legal conclusion, to which no response is required.

### **PARTIES**

6. Defendant lacks knowledge or information sufficient to form a belief as to the truth

of the allegations in Paragraph 6 of the Complaint.

7. Paragraph 7 of the Complaint consists of a legal conclusion, to which no response is required.

### **FACTUAL BACKGROUND**

8. Defendant does not have a record of receiving a FOIA request from Plaintiff Alec Ferretti dated May 1, 2019, and therefore lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. Defendant admits that it received a FOIA request via electronic submission from Plaintiff Alec Ferretti on September 5, 2019, and that this FOIA request was assigned Control Number F-2019-09405. Defendant refers the Court to that FOIA request for a complete and accurate statement of its contents.

9. Defendant does not have a record of receiving a FOIA request from Plaintiff Alec Ferretti dated May 1, 2019, and therefore lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. Defendant admits that it received a FOIA request via electronic submission from Plaintiff Alec Ferretti on September 5, 2019, and that this FOIA request was assigned Control Number F-2019-09405. Defendant admits that the quoted language is contained in the FOIA request assigned Control Number F-2019-09405, and respectfully refers the Court to that request for a full and accurate statement of its contents.

10. Defendant admits that it sent an email to Plaintiff Alec Ferretti on February 21, 2020, in connection with his FOIA Request submitted on September 5, 2019, and assigned Control Number F-2019-09405. Defendant respectfully refers the Court to that email for a full and accurate statement of its contents.

11. Defendant admits that it was still processing Plaintiffs' request when Plaintiffs filed the Complaint in this action.

**CAUSE OF ACTION**

12. Paragraph 12 of the Complaint consists of legal conclusions, to which no response is required.

13. Defendant denies the allegations in Paragraph 13.

14. Paragraph 14 of the Complaint consists of legal conclusions, to which no response is required. To the extent a response is deemed required, Defendant denies the allegations in Paragraph 14 of the Complaint.

**REQUEST FOR RELIEF**

15. The paragraph beginning with “WHEREFORE” on the fourth page of the Complaint, including subparagraphs “A” through “H”, consists of Plaintiffs’ prayer for relief, to which no response is required. To the extent a response is deemed required, Defendant denies that Plaintiffs are entitled to the relief requested, or any other relief, for the claims alleged in the Complaint.

**DEFENSES**

Any allegations not specifically admitted, denied, or otherwise answered are hereby denied. For further defenses, Defendant alleges as follows:

**FIRST DEFENSE**

The Court lacks subject matter jurisdiction over Plaintiffs’ requests for relief that exceed the relief authorized by statute under FOIA, 5 U.S.C. § 552.

**SECOND DEFENSE**

Plaintiffs fail to state a claim on which relief may be granted.

### **THIRD DEFENSE**

Defendant's actions did not violate the FOIA or any other statutory or regulatory provisions.

### **FOURTH DEFENSE**

Some or all of the requested records or information are exempt from disclosure, in whole or in part. *See* 5 U.S.C. § 552(b).

### **FIFTH DEFENSE**

Plaintiffs' FOIA request does not reasonably describe the records sought.

### **SIXTH DEFENSE**

Plaintiffs are not entitled to attorney fees under 5 U.S.C. § 552(a)(4)(E).

### **SEVENTH DEFENSE**

At all times alleged in the Complaint, Defendant acted in good faith, with justification, and pursuant to authority.

### **EIGHTH DEFENSE**

Defendants reserve the right to amend this answer to assert any other matter that constitutes an avoidance or affirmative defense under Rule 8(c) of the Federal Rules of Civil Procedure.

In asserting these defenses, Defendant does not assume the burden to establish any fact or proposition where that burden is properly imposed upon Plaintiffs. Defendant may have additional defenses which are not currently known but may become known at a later time. Accordingly, Defendant reserves the right to assert each and every affirmative or other defense that may be available, including any defenses available pursuant to Rules 8 and 12 of the Federal Rules of Civil Procedure.

WHEREFORE Defendant respectfully requests that the Court: (1) dismiss the complaint with prejudice; (2) enter judgment in favor of Defendant; and (3) grant such further relief as the Court deems just and proper.

Dated: September 25, 2023  
New York, New York

Respectfully submitted,

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